

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION

KEITH FULLER,

File no:

Plaintiff,

Hon.

vs.

HOMAN TRANSPORTATION, INC.,
A FOREIGN CORPORATION, AND
DANIEL AULT, JOINTLY AND
SEVERALLY,

Defendants.

_____/

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_____/

COMPLAINT AND JURY DEMAND

NOW COME the Plaintiff, KEITH FULLER, by and through his attorneys,
FAILEY LAW PLC, and for his Complaint, state as follows:

JURISDICTION AND VENUE

1. Plaintiff is a resident of and citizen of the State of Michigan.
2. Defendant, Homan Transportation, Inc. (Homan Transportation) is a foreign limited liability company, organized in the State of Ohio.
3. Defendant, Daniel Ault (Ault), is an employee of Defendant, Homan Transportation, and is a resident of the State of Ohio.

4. Plaintiff makes a demand in excess of \$1,000,000.00 and seeking both economic and non-economic damages.

5. A substantial part of the events or omissions giving rise to Plaintiff's claim herein occurred in this Judicial District, as this Judicial District is the one in which the events leading to Plaintiff's injuries occurred and in which the majority of evidence is located.

6. For the above reasons, this Court has jurisdiction over the subject matter of this proceeding pursuant to 28 USC 1332.

7. For the above reasons, this Court is also the proper venue over the subject matter of this proceeding pursuant to 28 U.S.C. 1391.

FACTUAL ALLEGATIONS

8. On October 8, 2020 the Plaintiff, Keith Fuller, was seriously and permanently injured in Greenville, Michigan when, as a pedestrian, he was struck by a motor vehicle. The motor vehicle was owned by Defendant, Homan Transportation, and was negligently operated by Homan Transportation's employee, Daniel Ault.

9. The incident occurred at Foremost Farms, 6501 Fitzner Road, Greenville, Michigan. At that time and place, Defendant Ault, a truck driver employed by and working for Defendant, Homan Transportation, struck the Plaintiff, Keith Fuller.

10. As a result of being hit by the semi-truck, Plaintiff suffered a displaced compound fracture of his left leg and ankle.

11. Defendant, Homan Transportation, Inc., is the titled-owner of the motor vehicle that Defendant, Daniel Ault, was operating when he struck the Plaintiff, Keith Fuller.

12. Defendant, Daniel Ault, is an employee of Homan Transportation.

13. That at said time and place, Defendant, Daniel Ault, was negligent in his operation of the motor vehicle.

14. That at all relevant times, the Plaintiff was acting reasonably, and was not comparatively negligent in any way.

COUNT I
NEGLIGENCE, GROSS NEGLIGENCE OF DANIEL AULT AND
HOMAN TRANSPORTATION

15. Plaintiff restates, re-alleges, and incorporates all paragraphs stated above as though fully set forth herein.

16. At all relevant times, and pursuant to Michigan law, Defendant Ault owed a duty to act with ordinary care for the safety of the public, and specifically, to the Plaintiff, Keith Fuller, and, which duties include, but are not limited to, obeying all laws, statutes and city ordinances of the City of Greenville, County of Kent, and State of Michigan.

17. At all relevant times, Defendant had a duty to act as a reasonably careful person would under the same circumstances as existed at the time of the incident.

18. At all relevant times, Defendant breached his duties owed to Plaintiff in the following ways:

- a. Operated a motor vehicle in disregard for the safety of the Plaintiff and others in violation of MCL 257.671;
- b. Operated a motor vehicle in willful and wanton disregard for the safety of Plaintiff and others in violation of MCL 257.6721;
- c. Operated a motor vehicle without due caution and circumspection and in a manner so as to endanger or be likely to endanger persons and/ or property;

- d. Negligently failed to keep a proper lookout for pedestrians then and there present;
- e. Failed to have his vehicle in control contrary to MCL 257.627 and the common law;
- f. Failed to drive, operate and control said vehicle in a careful, safe and prudent manner;
- g. Failed to maintain and make a proper lookout ahead, or to make proper observations and failing to see what was there to be seen as a reasonable and prudent person would have if the proper observation had been made;
- h. by failing to observe the Plaintiff a Pedestrian that was openly visible and Defendant had notice that the Plaintiff was present;
- i. Others acts of negligence not yet discovered.

19. As a direct and proximate result of the Defendants' negligence, Plaintiff suffered the following serious injuries and damages:

- A. Compound displaced fracture of Plaintiff's left leg and ankle;
- B. Nerve damage to Plaintiff's left leg;
- C. Severe immobility, loss of function;
- D. Permanent serious scarring;
- E. Past and future medical treatment and physical therapy;
- F. Loss of social, household, and recreational activities;
- G. Physical pain and suffering;
- H. Inability to exercise;
- I. Mental anguish;
- J. Emotional distress;
- K. Medical expenses past, present, and future;

L. And other damages, injuries, and consequences related to the accident and that develop during the course of discovery.

20. That prior to the occurrence of this accident, Plaintiff was a reasonably strong and healthy person, engaging in the normal activities of life.

21. That the injuries Plaintiff suffered resulted in disability, restrictions, pain and suffering, mental anguish and loss of enjoyment of life and all constitutes serious impairments of bodily functions that have affected Plaintiff's general ability to lead his normal life.

22. That as a direct and proximate result of the negligence of Defendants, Plaintiff suffers and will continue to suffer in the future, pain, humiliation, permanent scarring, disfigurement, mental anguish, embarrassment, gross indignity and inconvenience because of the permanent nature of said injuries.

23. As a direct and proximate result of the negligence of Defendants, Plaintiff was forced to seek care and treatment from hospitals, physicians, and specialists and has expended large sums of money for said care and treatment and will continue to expand such sums in the future.

WHEREFORE, Plaintiff respectfully requests this Honorable Court award damages against Defendants in excess of One-Million Dollars (\$1,000,000.00) Dollars exclusive of costs fees, and interest.

COUNT II
OWNERSHIP LIABILITY - HOMAN TRANSPORTATION

24. Plaintiff hereby restates, realleges, and incorporates all allegations contained in paragraphs above as though fully set forth herein.

25. At all relevant times, Defendant, Homan Transportation was the owner of a semi-truck and trailer that was being operated by Defendant, Daniel Ault.

26. Pursuant to Michigan law, Defendant, Homan Transportation remains liable for bodily injuries resulting from the negligent operation by any permissive user of vehicles he is the owner of pursuant to the Owner Liability Statute, MCL 257.401.

27. That as the direct and proximate result of the ownership liability of Defendant, Homan Transportation, as alleged herein, Plaintiff, Keith Fuller, has sustained a variety of serious permanent injuries, including those injuries as stated above.

28. That as a further direct and proximate cause of the actions, inactions, breach of duties, negligence of Defendant, as described herein, Plaintiff, Keith Fuller, will suffer excess economic loss, including excess replacement services and excess wage loss.

WHEREFORE, Plaintiff respectfully requests this Honorable Court award damages against Defendant in excess of One Million Dollars (\$1,000,000.00) Dollars, exclusive of costs, fees and interest.

COUNT III
NEGLIGENT ENTRUSTMENT – HOMAN TRANSPORTATION

29. Plaintiff hereby restates, realleges and incorporate each and every allegation contained in the paragraphs above, as though set forth fully and completely herein.

30. As registered owner of said vehicle, Defendant, Homan Transportation, owed a duty to Plaintiff, but disregarding said duties, Defendant did entrust a motor vehicle without due care, caution or circumspection to Defendant, Daniel Ault.

31. The negligence of Defendant, Homan Transportation, in this regard includes, but is not limited to:

- A. Negligently, entrusting a motor vehicle to an individual who Defendant knew, or in the exercise of reasonable care should have known, did not possess the necessary qualifications to drive a motor vehicle safely, in violation of MCL 257.301;
- B. Negligently entrusting a motor vehicle to an individual who Defendant knew, or in the exercise of reasonable care should have known, had a poor driving skills and/or no driving history in violation of MCL 257.301;
- C. Failing to ascertain whether Defendant Driver had adequate knowledge, skill and experience to drive a motor vehicle safely;
- D. Performing other acts of negligence not yet known to Plaintiff but will be ascertained during the discovery of said litigation.

32. Plaintiff was free from any act of negligence and/or omission contributing in whole or in part to the occurrence of said collision, and the resulting damages and injuries.

33. That as the direct and proximate result of the negligent entrustment of Defendant, Homan Transportation, as alleged herein, Plaintiff, Keith Fuller, has sustained a variety of serious permanent injuries, including, but not limited to injuries, as stated above.

WHEREFORE, Plaintiff prays this Honorable Court enter its Judgment against Defendant for whatever amount in excess of One Million Dollars (\$1,000,000.00) to which Plaintiff may be found to be entitled by the trier of fact, together with costs, interest and attorney fees so wrongfully incurred.

Dated: July 22, 2021



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JURY DEMAND

Plaintiff hereby demand a trial by jury.

Dated: July 22, 2021



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